

HOUSE No. 1661

By Mr. Fagan of Taunton, petition of James H. Fagan relative to the determination of the lowest eligible and responsible bidder for certain public construction contracts. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE DETERMINATION OF THE LOWEST ELIGIBLE AND RESPONSIBLE BIDDER FOR CERTAIN PUBLIC CONSTRUCTION CONTRACTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 44D of Chapter 149 of the General Laws, as appearing
2 in the 2000 Official Edition, is hereby amended by striking out
3 subsection (6) and inserting in place thereof the following subsec-
4 tion:—
5 (6) In determining who is the lowest eligible and responsible
6 bidder as required by paragraph (2) of section forty-four A, the
7 awarding authority shall consider the information submitted by
8 the bidder in the update statement. The awarding authority may
9 also consider the evaluations of the bidder's work obtained by or
10 furnished to the division of capital asset management and any
11 information furnished by the bidder in or after the application for
12 certification. Notwithstanding that a contractor may have been
13 certified by the division, an awarding authority, in connection
14 with a particular bid, may review the evaluations of the low bid-
15 der's work to determine whether the evaluations of comparable
16 projects performed by such low bidder establish that the bidder is
17 qualified to perform the work on the building project being bid
18 and may reject the bid if the evaluations do not establish that the
19 bidder is so qualified. Such awarding authority may also reject the
20 bid of a low bidder if the division has obtained or received two or
21 more unsatisfactory project evaluations of building projects of any
22 type completed by such low bidder within the past five years. If

23 the awarding authority determined that the low bidder is not
24 responsible and eligible, the awarding authority shall reject the
25 bidder and evaluate the next low bidder in accordance with this
26 section. The awarding authority shall give notice of such action to
27 the division of capital asset management.

28 In determining which is the most advantageous offer, the
29 awarding authority shall consider the information submitted by
30 the offeror on the update statement. The awarding authority may
31 also consider the evaluations of the offeror furnished to or
32 obtained by the bidder in or after the application for certification.